

**ASSEMBLY BILL**

**No. 1991**

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**Introduced by Assembly Member Mullin**

February 14, 2008

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An act to amend Section 66452.6 of the Government Code, relating to land use, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1991, as introduced, Mullin. Subdivisions: tentative maps.

(1) The Subdivision Map Act provides that an approved or a conditionally approved tentative map expires after 24 months unless extended by local ordinance not to exceed an additional 12 months. Extensions cannot extend the tentative map more than 10 years from its approval or conditional approval, as specified.

This bill would allow an approved tentative map, whose expiration was due in part to a city-initiated utility-service moratorium and that is the subject of pending litigation, to be deemed in full force and effect as part of a litigation settlement.

(2) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 66452.6 of the Government Code is  
2     amended to read:

1     66452.6. (a) (1) An approved or conditionally approved  
2 tentative map shall expire 24 months after its approval or  
3 conditional approval, or after any additional period of time as may  
4 be prescribed by local ordinance, not to exceed an additional 12  
5 months. However, if the subdivider is required to expend one  
6 hundred seventy-eight thousand dollars (\$178,000) or more to  
7 construct, improve, or finance the construction or improvement  
8 of public improvements outside the property boundaries of the  
9 tentative map, excluding improvements of public rights-of-way  
10 which abut the boundary of the property to be subdivided and  
11 which are reasonably related to the development of that property,  
12 each filing of a final map authorized by Section 66456.1 shall  
13 extend the expiration of the approved or conditionally approved  
14 tentative map by 36 months from the date of its expiration, as  
15 provided in this section, or the date of the previously filed final  
16 map, whichever is later. The extensions shall not extend the  
17 tentative map more than 10 years from its approval or conditional  
18 approval. However, a tentative map on property subject to a  
19 development agreement authorized by Article 2.5 (commencing  
20 with Section 65864) of Chapter 4 of Division 1 may be extended  
21 for the period of time provided for in the agreement, but not beyond  
22 the duration of the agreement. The number of phased final maps  
23 that may be filed shall be determined by the advisory agency at  
24 the time of the approval or conditional approval of the tentative  
25 map.

26     (2) Commencing January 1, 2005, and each calendar year  
27 thereafter, the amount of one hundred seventy-eight thousand  
28 dollars (\$178,000) shall be annually increased by operation of law  
29 according to the adjustment for inflation set forth in the statewide  
30 cost index for class B construction, as determined by the State  
31 Allocation Board at its January meeting. The effective date of each  
32 annual adjustment shall be March 1. The adjusted amount shall  
33 apply to tentative and vesting tentative maps whose applications  
34 were received after the effective date of the adjustment.

35     (3) "Public improvements," as used in this subdivision, include  
36 traffic controls, streets, roads, highways, freeways, bridges,  
37 overcrossings, street interchanges, flood control or storm drain  
38 facilities, sewer facilities, water facilities, and lighting facilities.

39     (b) (1) The period of time specified in subdivision (a), including  
40 any extension thereof granted pursuant to subdivision (e), shall

1 not include any period of time during which a development  
2 moratorium, imposed after approval of the tentative map, is in  
3 existence. However, the length of the moratorium shall not exceed  
4 five years.

5 (2) The length of time specified in paragraph (1) shall be  
6 extended for up to three years, but in no event beyond January 1,  
7 1992, during the pendency of any lawsuit in which the subdivider  
8 asserts, and the local agency which approved or conditionally  
9 approved the tentative map denies, the existence or application of  
10 a development moratorium to the tentative map.

11 (3) Once a development moratorium is terminated, the map  
12 shall be valid for the same period of time as was left to run on the  
13 map at the time that the moratorium was imposed. However, if the  
14 remaining time is less than 120 days, the map shall be valid for  
15 120 days following the termination of the moratorium.

16 (c) The period of time specified in subdivision (a), including  
17 any extension thereof granted pursuant to subdivision (e), shall  
18 not include the period of time during which a lawsuit involving  
19 the approval or conditional approval of the tentative map is or was  
20 pending in a court of competent jurisdiction, if the stay of the time  
21 period is approved by the local agency pursuant to this section.  
22 After service of the initial petition or complaint in the lawsuit upon  
23 the local agency, the subdivider may apply to the local agency for  
24 a stay pursuant to the local agency's adopted procedures. Within  
25 40 days after receiving the application, the local agency shall either  
26 stay the time period for up to five years or deny the requested stay.  
27 The local agency may, by ordinance, establish procedures for  
28 reviewing the requests, including, but not limited to, notice and  
29 hearing requirements, appeal procedures, and other administrative  
30 requirements.

31 (d) The expiration of the approved or conditionally approved  
32 tentative map shall terminate all proceedings and no final map or  
33 parcel map of all or any portion of the real property included within  
34 the tentative map shall be filed with the legislative body without  
35 first processing a new tentative map. Once a timely filing is made,  
36 subsequent actions of the local agency, including, but not limited  
37 to, processing, approving, and recording, may lawfully occur after  
38 the date of expiration of the tentative map. Delivery to the county  
39 surveyor or city engineer shall be deemed a timely filing for  
40 purposes of this section.

(e) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of five years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Prior to the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action prior to expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be

1 deemed to have been imposed either on the date of approval or  
2 conditional approval of the tentative map, if evidence was included  
3 in the public record that the public agency which owns or controls  
4 the real property or any interest therein may refuse to convey that  
5 property or interest, or on the date that the public agency which  
6 owns or controls the real property or any interest therein receives  
7 an offer by the subdivider to purchase that property or interest for  
8 fair market value, whichever is later. A development moratorium  
9 specified in this paragraph shall extend the tentative map up to the  
10 maximum period as set forth in subdivision (b), but not later than  
11 January 1, 1992, so long as the public agency which owns or  
12 controls the real property or any interest therein fails or refuses to  
13 convey the necessary property interest, regardless of the reason  
14 for the failure or refusal, except that the development moratorium  
15 shall be deemed to terminate 60 days after the public agency has  
16 officially made, and communicated to the subdivider, a written  
17 offer or commitment binding on the agency to convey the necessary  
18 property interest for a fair market value, paid in a reasonable time  
19 and manner.

20 *(3) Notwithstanding any other provision of law, an approved*  
21 *tentative map, whose expiration was due in part to a city-initiated*  
22 *utility-service moratorium and that is the subject of pending*  
23 *litigation, may be deemed to be in full force and effect as part of*  
24 *a litigation settlement.*

25 SEC. 2. This act is an urgency statute necessary for the  
26 immediate preservation of the public peace, health, or safety within  
27 the meaning of Article IV of the Constitution and shall go into  
28 immediate effect. The facts constituting the necessity are:

29 In order for the settlement of protracted and expensive litigation  
30 and avoidance of possible municipal insolvency, it is necessary  
31 that this act take effect immediately.